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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,807	11/01/2001	Charles Kannankeril	D-30221-01	5938
7590 03/17/2004			EXAMINER	
Sealed Air Corporation P. O. Box 464 Duncan, SC 29334			CHANG, VICTOR S	
			ART UNIT	PAPER NUMBER
			1771	
DATE MAILED: 03/17/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/998,807

Applicant(s)

KANNANKERIL, CHARLES

Examiner

Victor S Chang

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 04 March 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached NOTE.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 19-24,26-31,33-39,41,44,45 and 47-50.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

DANIEL ZIRKEN
PRIMARY EXAMINER
GROUP 1800

1700



NOTE

1. Applicants' amendments to claims 19, 27-29, 33, 34, 36, 39, 41, 45 and 47 have been entered, so as to place the Application in better form for appeal by materially reducing or simplifying the issues for appeal.

2. With respect to Applicant's argument that "Neither Orologio nor Waggoner discloses, teaches, or suggests a *perforated insulating sheet* having gas filled cavities" (Remarks, page 6, bottom paragraph), the Examiner repeats (see Paper No. 0920, page 3) that Applicant argues the cited references individually. In response to Applicant's arguments, it is asserted that one cannot show non-obviousness by attacking references individually where the rejections are based on combinations of references.

3. With respect to Applicant's argument that "neither Orologio nor Waggoner provides any suggestion or motivation to laminate the Waggoner barrier sheet to the Orologio bubble-pack material to improve moisture permeability and waterproof property" (Remarks, page 7, third paragraph), the Examiner notes that both Orologio and Waggoner are directed to construction sheet material, and Waggoner expressly teaches that the textured barrier sheet of his invention can also be incorporated into hybrid systems or exterior insulation, i.e., a finished system comprising a foam board (column 19, lines 28-30). As such, the Examiner repeats (see Paper No. 3, page 7) that it would have been obvious to one skilled in the art of construction sheet material to modify Orologio's insulation bubble bubble-pack in the land area, and laminate it to a

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moisture permeable, waterproof backing of Waggoner, motivated by the desire to obtain a waterproof sheet having an improved moisture permeability, so as to reduce the rot, mold and mildew (column 19, lines 15-27).

4. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning (Remarks, page 7, bottom paragraph), it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).